



U.S. Department of Justice

Antitrust Division

Liberty Square Building

*450 5th Street, N.W.
Washington, DC 20530*

June 27, 2024

The Honorable Leda Dunn Wettre
United States District Court
District of New Jersey
Martin Luther King Building & U.S. Courthouse
50 Walnut Street
Newark, NJ 07101

Re: *United States v. Apple*, No. 24-cv-4055 (D.N.J.) (JXN-LDW)

Dear Judge Wettre:

The United States and Plaintiff States write to respectfully request that the Court schedule an initial Rule 16 conference. Over the last three months, the parties have worked diligently on a proposed case management order, which would cover, among other topics, a plan for discovery. The parties have reached agreement on many terms but remain far apart on key terms, such as the scope and timing of permissible discovery. The parties are unable to make meaningful further progress without the Court's involvement.

As alleged in the Amended Complaint, the United States and Plaintiff States seek an injunction to stop ongoing anticompetitive conduct that results in daily harm to American consumers and businesses. Recognizing the importance of moving forward efficiently in the face of such ongoing harm, Congress has mandated that actions like this one "proceed, as soon as may be, to the hearing and determination of the case," 15 U.S.C. § 4, and exempted from MDL coordination and consolidation actions in "which the United States or a State is a complainant arising under the antitrust laws" to avoid delays in determining government enforcement actions, 28 U.S.C. § 1407(g).

Plaintiffs' request for this conference is motivated by Congress's direction that antitrust enforcement actions to stop ongoing harm be treated with special urgency by both the parties and courts. *United States v. Dentsply*, 190 F.R.D. 140, 145 (D. Del. 1999) (noting "congressional recognition of the primacy of antitrust enforcement actions brought by the United States, and that such actions are of special urgency and serve a different purpose than private damages suits because they seek to enjoin ongoing anticompetitive conduct"). A scheduling conference is also consistent with the "clear public policy favoring the expeditious resolution of government antitrust enforcement actions." *United States v. Google*, 661 F. Supp. 3d 480, 490 (E.D. Va. 2023). *See also*

United States v. Agri Stats, Inc., No. 23-cv-3009, 2024 WL 3061570, at *5 (D. Minn. May 17, 2024) (“The United States, unlike private plaintiffs who seek damages, has the responsibility of protecting the public from anticompetitive behavior by seeking speedy injunctive relief when it finds a violation of antitrust law.”).

Given the ongoing nature of the alleged harm, the United States and Plaintiff States seek the Court’s guidance and instruction to allow the parties to conduct discovery diligently and efficiently. *See* D.N.J. Local Rule 26.1. To facilitate such a conference, Plaintiffs propose that the parties provide the Court within ten calendar days a joint status report identifying the areas of agreement and disagreement along with the parties’ respective positions. Plaintiffs are also available to promptly provide any other requested materials that will assist the Court.

Plaintiffs have sought Apple’s concurrence in requesting this conference. Apple does not join this request.

Respectfully submitted,

s/ Jonathan Lasken
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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA et al.,

Plaintiff,

v.

APPLE INC.

Defendants.

Case No. 2:24-cv-04055-JXN-LDW

CERTIFICATE OF SERVICE

I hereby certify that the above letter and this Certificate of Service were served upon defendant's counsel, Craig S. Primis, Esq., Devora W. Allen, Esq., Liza M. Walsh, Esq., and K. Winn Allen, Esq. 1301 Pennsylvania Avenue, NW, Washington, D.C., 20004, by CM/ECF on June 27.

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